## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PHILLIP A. FREDERICK, JR., : CIVIL ACTION NO. 1:13-CV-00661

**BRIAN MARHON, and MICHAEL** :

MESKUNAS, : (Chief Judge Conner)

:

Plaintiffs, :

;

v.

:

ANTHONY F. BARBUSH,

:

Defendant.

## **ORDER**

AND NOW, this 4th day of March, 2014, upon consideration of the motion to dismiss (Doc. 18) filed by defendant Anthony F. Barbush, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

- 1. Defendant's motion to dismiss (Doc. 18) is GRANTED in part and DENIED in part, as follows:
  - a. The motion is GRANTED with prejudice with respect to counts I, III, IV, VI, VII, and IX of the amended complaint (Doc. 11);
  - b. The motion is GRANTED without prejudice with respect to counts II and V of the amended complaint (Doc. 11); and
  - c. The motion is DENIED with respect to count VIII of the amended complaint (Doc. 11).

2. Within twenty (20) days from the date of this order, plaintiffs may file a second amended complaint to address the deficiencies identified in the court's memorandum. Failure to file a second amended complaint within twenty (20) days shall be deemed an abandonment of any such claims and the case will proceed only on the remaining claims.

/S/ Christopher C. Conner

Christopher C. Conner, Chief Judge United States District Court Middle District of Pennsylvania